

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DWAYNE THORPE,	:	
<i>Plaintiff</i>	:	CIVIL ACTION
	:	
v.	:	
	:	
CITY OF PHILA., <i>et al.</i> ,	:	No. 19-5094
<i>Defendants</i>	:	

ORDER

AND NOW, this 31st day of August, 2020, upon consideration of Motion to Dismiss for Failure to State a Claim filed by the City of Philadelphia, Angela Gaines, Henry Glenn, Frank Hayes, Ron McClane, Philip Riehl, and Timothy Scally (Doc. No. 34), the response in opposition (Doc. No. 38), the reply in support (Doc. No. 46), Beverly Cummings' Motion to Dismiss for Failure to State a Claim (Doc. No. 42), the response in opposition (Doc. No. 44), the parties' supplemental briefing (Doc. Nos. 51, 52, 56), and the oral argument held on July 10, 2020, it is **ORDERED** that:

1. The Motion to Dismiss filed by the City of Philadelphia, Angela Gaines, Henry Glenn, Frank Hayes, Ron McClane, Philip Riehl, and Timothy Scally (Doc. No. 34) is **GRANTED IN PART, DENIED IN PART**, and **DEEMED MOOT IN PART** as set forth in the accompanying Memorandum.

2. Beverly Cummings' Motion to Dismiss (Doc. No. 42) is **GRANTED IN PART** and **DENIED IN PART** as set forth in the accompanying Memorandum.

3. Plaintiff's failure-to-intervene claim as to Angela Gaines, Henry Glenn, Beverly Cummings, Frank Hayes, Ron McClane, and Philip Riehl is **DISMISSED**.

4. Plaintiff's Fourteenth Amendment malicious prosecution claim as to Angela Gaines, Henry Glenn, Beverly Cummings, Frank Hayes, Ron McClane, Philip Riehl, and Timothy Scally is **DISMISSED**.

5. To the extent the Motion to Dismiss filed by the City of Philadelphia, Angela Gaines, Henry Glenn, Frank Hayes, Ron McClane, Philip Riehl, and Timothy Scally (Doc. No. 34) requests the Court to dismiss a Fourteenth Amendment malicious prosecution claim as to the City, such a request is **DEEMED MOOT** as set forth in the accompanying Memorandum.

6. Plaintiff's malicious prosecution claim brought under Pennsylvania state law as to the City is **DISMISSED**.

7. Plaintiff's fabrication-of-evidence claim as to Angela Gaines is **DISMISSED**.

8. The remainder of the claims at issue in the Motions to Dismiss (Doc. Nos. 34, 32) remain.

9. The Motions (Doc. Nos. 34, 42) are **DENIED WITHOUT PREJUDICE** as to the individual defendants' assertions of qualified immunity.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Gene E.K. Pratter", is written over a horizontal line.

GENE E.K. PRATTER

UNITED STATES DISTRICT JUDGE